

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NATHAN L. CASTILLO,

Plaintiff,

v.

No. CV 21-300 CG

KILOLO KIJAKAZI,¹
Commissioner of the
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on Plaintiff Nathan L. Castillo's *Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support* (the "Motion"), (Doc. 22), filed March 1, 2022. In the Motion, Mr. Castillo indicates he seeks attorney fees and paralegal fees in the amount of \$6,000.00. (Doc. 22 at 1). Further, the parties agree that "[p]ayment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have in connection with this action," and that "if Plaintiff's counsel ultimately receives an award of attorney fees pursuant to 42 U.S.C. § 406(b), she must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986)." *Id.* The Court, having reviewed the Motion under EAJA, 28 U.S.C. § 2412, and noting that the Motion is unopposed, finds the Motion is well-taken and shall be granted.

IT IS THEREFORE ORDERED that Plaintiff be awarded \$6,000.00 in attorney and paralegal fees pursuant to EAJA, 28 U.S.C. § 2412, made payable to Plaintiff but mailed

¹ Kilolo Kijakazi was appointed Acting Commissioner of the Social Security Administration on July 9, 2021.

to Plaintiff's attorney. See *Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', written over a horizontal line.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE